

ESTTA Tracking number: **ESTTA589625**

Filing date: **02/26/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91210282
Party	Defendant Stockmarket Burger, Inc.
Correspondence Address	PAULO A DE ALMEIDA PATEL & ALMEIDA PC 16830 VENTURA BLVD, SUITE 360 ENCINO, CA 91436 UNITED STATES Paulo@PatelAlmeida.com
Submission	Motion to Amend/Amended Answer or Counterclaim
Filer's Name	Paulo A. de Almeida
Filer's e-mail	Paulo@PatelAlmeida.com
Signature	/Paulo A. de Almeida/
Date	02/26/2014
Attachments	Applicant's Amended Answer_Opposition No. 91210282.pdf(21683 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

RED BULL GMBH,)	
)	
Opposer,)	Opposition No. 91210282
)	Serial No. 85/680,816
v.)	Mark: Bull and swirl/wind design
)	
STOCKMARKET BURGER, INC.,)	
)	
)	
Applicant.)	
)	
)	
)	
)	

**APPLICANT'S AMENDED ANSWER TO OPPOSER'S AMENDED NOTICE OF
OPPOSITION**

Applicant, Stockmarket Burger, Inc. ("Applicant"), a California corporation, by its attorneys hereby responds to the allegations set forth in the Amended Notice of Opposition filed by Red Bull GmbH ("Opposer"), as follows¹:

1. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 1 of the Amended Notice of Opposition, and therefore, denies such allegations.

¹ Opposer's First Amended Notice of Opposition, filed on January 17, 2014, is accompanied by a "Motion for Leave to File its First Amended Notice of Opposition". Applicant does not contest this motion. If the Board grants Opposer's motion and accepts the Amended Notice of Opposition, Applicant requests that its Amended Answer be entered as part of the opposition record.

Opposer also filed a Motion to Consolidate this opposition with Proceeding No. 91214537 on January 21, 2014. Applicant does not contest the Motion to Consolidate.

2. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 2 of the Amended Notice of Opposition, and therefore, denies such allegations.
3. Applicant admits that the United States Patent and Trademark Office's (USPTO) TESS database indicates that Opposer is the owner of the trademark registration identified in Paragraph 3 of the Amended Notice of Opposition. Applicant has insufficient knowledge or information as to whether the registration referenced in Paragraph 3 of the Amended Notice of Opposition is "valid and subsisting" and therefore, denies such allegations.
4. Applicant admits that the United States Patent and Trademark Office's (USPTO) TESS database indicates that Opposer is the owner of the trademark registration identified in Paragraph 4 of the Amended Notice of Opposition. Applicant has insufficient knowledge or information as to whether the registration referenced in Paragraph 4 of the Amended Notice of Opposition is "valid and subsisting" and therefore, denies such allegations.
5. Applicant admits that the United States Patent and Trademark Office's (USPTO) TESS database indicates that Opposer is the owner of the trademark registration identified in Paragraph 5 of the Amended Notice of Opposition. Applicant has insufficient knowledge or information as to whether the registration referenced in Paragraph 4 of the Amended Notice of Opposition is "valid and subsisting" and therefore, denies such allegations.
6. Applicant admits that the United States Patent and Trademark Office's (USPTO) TESS database indicates that Opposer is the owner of the trademark registration identified in Paragraph 6 of the Amended Notice of Opposition. Applicant has insufficient knowledge or information as to whether the registration referenced in Paragraph 6 of the Amended Notice of Opposition is "valid and subsisting" and therefore, denies such allegations.

7. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 7 of the Amended Notice of Opposition, and therefore, denies such allegations.
8. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 8 of the Amended Notice of Opposition, and therefore, denies such allegations.
9. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 9 of the Amended Notice of Opposition, and therefore, denies such allegations.
10. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 10 of the Amended Notice of Opposition, and therefore, denies such allegations.
11. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 11 of the Amended Notice of Opposition, and therefore, denies such allegations.
12. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 12 of the Amended Notice of Opposition, and therefore, denies such allegations.
13. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 13 of the Amended Notice of Opposition, and therefore, denies such allegations.
14. Applicant admits the truth of the allegations set forth in Paragraph 14 of the Amended Notice of Opposition.

15. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 15 of the Amended Notice of Opposition, and therefore, denies such allegations; with the exception that Applicant specifically denies that its mark "highlights Applicant's direct reference to Opposer and Opposer's well-known and famous Red Bull and Bull Logo Marks".
16. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 16 of the Amended Notice of Opposition, and therefore, denies such allegations.
17. Applicant denies the allegations set forth in Paragraph 17 of the Amended Notice of Opposition.
18. Applicant denies the allegations set forth in Paragraph 18 of the Amended Notice of Opposition.
19. Applicant denies the allegations set forth in Paragraph 19 of the Amended Notice of Opposition.
20. Applicant denies the allegations set forth in Paragraph 20 of the Amended Notice of Opposition.
21. Applicant denies the allegations set forth in Paragraph 21 of the Amended Notice of Opposition.
22. Applicant denies the allegations set forth in Paragraph 22 of the Amended Notice of Opposition.
23. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 23 of the Amended Notice of Opposition, and therefore, denies such allegations.

24. Applicant has insufficient knowledge or information as to the truth of the allegations set forth in Paragraph 24 of the Amended Notice of Opposition, and therefore, denies such allegations.
25. Applicant denies the allegations set forth in Paragraph 25 of the Amended Notice of Opposition.
26. Applicant denies the allegations set forth in Paragraph 26 of the Amended Notice of Opposition.

WHEREFORE, Applicant prays that this opposition be denied and the registration of U.S. Application Serial No. 85/680,816 be granted.

Respectfully submitted,

Dated as of: February 26, 2014

By: /Paulo A. de Almeida/
Paulo A. de Almeida
Alex D. Patel
Patel & Almeida, P.C.
16830 Ventura Blvd., Suite 360
Encino, CA 91436
(818) 380-1900

Attorneys for Applicant,
Stockmarket Burger, Inc.

PROOF OF SERVICE

I hereby certify that a true and complete copy of the foregoing **APPLICANT'S AMENDED ANSWER** has been served on Martin R. Greenstein, counsel for Opposer, on February 26, 2014, via First Class U.S. Mail, postage prepaid to:

Martin R. Greenstein
TechMark a Law Corporation
4820 Harwood Road, 2nd Floor
San Jose, CA 95124-5273

By: /Paulo A. de Almeida/
Paulo A. de Almeida